

107TH CONGRESS  
1ST SESSION

# H. R. 2754

To amend title 18, United States Code, to reform Federal Prison Industries,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Mr. GREEN of Wisconsin (for himself and Mr. SCOTT) introduced the  
following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to reform Federal  
Prison Industries, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Prison Indus-  
5       tries Reform Act of 2001”.

1 **SEC. 2. AUTHORITY TO CARRY OUT PILOT PROJECTS USING**  
2 **FEDERAL INMATE LABOR TO REPLACE FOR-**  
3 **EIGN LABOR.**

4 (a) FOREIGN LABOR SUBSTITUTE PILOT PROJECTS  
5 AUTHORIZED.—Chapter 85 of title 18, United States  
6 Code, is amended in section 1761—

7 (1) in subsection (b), by striking “This chap-  
8 ter” and inserting “This section”;

9 (2) in subsection (c), by striking “this chapter”  
10 and inserting “this section”;

11 (3) by redesignating subsection (d) as sub-  
12 section (f); and

13 (4) by adding after subsection (c) the following  
14 new subsections:

15 “(d) This section shall not apply to goods, wares, or  
16 merchandise manufactured, produced, or mined by con-  
17 victs or prisoners who are participating in industrial oper-  
18 ations of Federal Prison Industries.

19 “(e) This section shall not apply to goods, wares, or  
20 merchandise manufactured, produced, or mined by con-  
21 victs or prisoners who are participating in any pilot project  
22 approved as a foreign labor substitute by the Foreign  
23 Labor Substitute Panel established under section 1762.”.

24 (b) FOREIGN LABOR SUBSTITUTE PANEL.—

25 (1) Section 1762 of such chapter is amended to  
26 read as follows:

1 **“§ 1762. Foreign labor substitute panel**

2 “(a) The Attorney General shall establish a panel to  
3 be known as the Foreign Labor Substitute Panel (in this  
4 section referred to as the ‘Panel’).

5 “(b) The Panel shall be composed of eight members,  
6 each of whom shall serve at the pleasure of the Attorney  
7 General, and who shall be appointed by the Attorney Gen-  
8 eral as follows:

9 “(1) One member who shall be an officer, em-  
10 ployee, or other representative of the Department of  
11 Commerce.

12 “(2) One member who shall be an officer, em-  
13 ployee, or other representative of the Department of  
14 Labor.

15 “(3) One member who shall be an officer, em-  
16 ployee, or other representative of the International  
17 Trade Commission.

18 “(4) One member who shall be an officer, em-  
19 ployee, or other representative of the Small Business  
20 Administration.

21 “(5) Two members, each of whom shall be an  
22 officer, employee, or other representative of the busi-  
23 ness community.

24 “(6) Two members, each of whom shall be an  
25 officer, employee, or other representative of orga-  
26 nized labor.

1 “(c)(1) Members of the Panel shall not receive pay,  
 2 allowances, or benefits by reason of their service on the  
 3 Panel.

4 “(2) Each member shall receive travel expenses, in-  
 5 cluding per diem in lieu of subsistence, in accordance with  
 6 applicable provisions under subchapter I of chapter 57 of  
 7 title 5, United States Code.

8 “(d) The Panel shall review proposals for pilot  
 9 projects submitted to the Panel. For each proposal re-  
 10 viewed, the Panel shall approve the pilot project as a for-  
 11 eign labor substitute if, and only if, the Panel determines  
 12 that the pilot project specified in the proposal satisfies  
 13 each of the following requirements:

14 “(1) The pilot project is to be carried out by  
 15 one or more private United States companies.

16 “(2) The goods, wares, or merchandise pro-  
 17 posed to be manufactured, produced, or mined whol-  
 18 ly or in part by Federal convicts or prisoners under  
 19 the pilot project would otherwise be manufactured,  
 20 produced, or mined by foreign labor.

21 “(e) Any determination of the Panel under subsection  
 22 (d) shall be made available to the public upon request.”.

23 (2) In the table of sections at the beginning of  
 24 such chapter, the item relating to section 1762 is  
 25 amended to read as follows:

“1762. Foreign Labor Substitute Panel.”.

1 **SEC. 3. RESTATEMENT AND IMPROVEMENT OF FEDERAL**  
2 **PRISON INDUSTRIES PROGRAM.**

3 (a) IN GENERAL.—Sections 4121, 4122, and 4123  
4 of title 18, United States Code, are amended to read as  
5 follows:

6 **“§ 4121. Federal Prison Industries: status, mission,**  
7 **and management**

8 “(a) STATUS.—Federal Prison Industries is a Gov-  
9 ernment corporation. The headquarters of the corporation  
10 is in the District of Columbia.

11 “(b) MISSION.—The mission of Federal Prison In-  
12 dustries is to carry out industrial operations in accordance  
13 with this chapter using eligible inmate workers.

14 “(c) BOARD OF DIRECTORS.—

15 “(1) COMPOSITION.—Federal Prison Industries  
16 is administered by a board of directors composed of  
17 12 members appointed by the Attorney General as  
18 follows:

19 “(A) One member appointed from among  
20 individuals recommended by the Speaker of the  
21 House of Representatives.

22 “(B) One member appointed from among  
23 individuals recommended by the minority leader  
24 of the House of Representatives.

1           “(C) One member appointed from among  
2 individuals recommended by the majority leader  
3 of the Senate.

4           “(D) One member appointed from among  
5 individuals recommended by the minority leader  
6 of the Senate.

7           “(E) Two members who shall be represent-  
8 atives of the business community.

9           “(F) Two members who shall be represent-  
10 atives of organized labor.

11           “(G) One member who shall be representa-  
12 tive of victims of crime.

13           “(H) One member who shall be representa-  
14 tive of the prisoner rehabilitation community.

15           “(I) Two members whose background or  
16 expertise the Attorney General considers appro-  
17 priate.

18           “(2) TERMS.—

19           “(A) Except as provided in this paragraph,  
20 each member shall be appointed for a term of  
21 four years.

22           “(B) As designated by the Attorney Gen-  
23 eral at the time of appointment, of the members  
24 first appointed—

1 “(i) 3 members shall be appointed for  
2 terms of 1 year;

3 “(ii) 3 members shall be appointed for  
4 terms of 2 years;

5 “(iii) 3 members shall be appointed  
6 for terms of 3 years; and

7 “(iv) 3 members shall be appointed  
8 for terms of 4 years.

9 “(C) Any member appointed to fill a va-  
10 cancy occurring before the expiration of the  
11 term for which the member’s predecessor was  
12 appointed shall be appointed only for the re-  
13 mainder of that term. A member may serve  
14 after the expiration of that member’s term until  
15 a successor has taken office. A vacancy in the  
16 Board shall be filled in the manner in which the  
17 original appointment was made.

18 “(3) COMPENSATION.—A member of the Board  
19 may not receive pay, allowances, or benefits by rea-  
20 son of his or her service on the Board.

21 “(4) QUORUM.—Seven members of the Board  
22 constitutes a quorum but a lesser number may hold  
23 hearings.

24 “(5) CHAIR.—The Chair of the Board is elected  
25 by the members.

1   **“§ 4122. Federal Prison Industries: operating objec-**  
2                   **tives, standards, and requirements**

3           “(a) OPERATING OBJECTIVES.—Federal Prison In-  
4 dustries shall carry out its industrial operations so as to  
5 achieve each of the following objectives:

6                   “(1) To increase public safety by reducing the  
7 rate of recidivism by providing as many inmates as  
8 possible with an opportunity to gain meaningful em-  
9 ployment and vocational skills and improve their  
10 chances of becoming productive and law-abiding citi-  
11 zens after release from prison.

12                   “(2) To minimize any adverse effects of the op-  
13 erations on domestic companies or workers.

14                   “(3) To provide meaningful employment and  
15 vocational training for not less than 25 percent of el-  
16 igible inmate workers.

17                   “(4) To provide inmate workers with a source  
18 of income with which they may facilitate their ability  
19 to contribute to the discharge of their financial obli-  
20 gations.

21                   “(5) To generate sufficient revenue to fund  
22 those operations.

23                   “(6) To provide products and services that are  
24 market quality and competitively priced.

25           “(b) PERFORMANCE STANDARDS.—Federal Prison  
26 Industries shall carry out its industrial operations in com-



1 pliance with the following standards, as applicable to cor-  
2 rectional industry programs:

3 “(1) United Nations standards.

4 “(2) International Labor Organization conven-  
5 tions to which the United States is a signatory  
6 party.

7 “(3) Federal standards.

8 “(4) American Correctional Association stand-  
9 ards.

10 “(c) VOLUNTARINESS.—Federal Prison Industries  
11 shall carry out its industrial operations only with inmate  
12 workers who participate in those operations voluntarily.

13 “(d) WAGE RATES.—Unless otherwise provided by  
14 law, each inmate worker participating in the industrial op-  
15 erations of Federal Prison Industries shall be paid at a  
16 wage rate prescribed by the Board of Directors of Federal  
17 Prison Industries.

18 “(e) PROTECTION OF CERTAIN INFORMATION.—Fed-  
19 eral Prison Industries shall carry out its industrial oper-  
20 ations so as to ensure that, in the production of a product  
21 or the performance of a service, inmate workers do not  
22 have access to—

23 “(1) personal or financial information about  
24 any citizen of the United States without prior notice  
25 of the access being provided to that citizen, includ-

1       ing information relating to the citizen's real prop-  
2       erty, however described, unless that information is  
3       publicly available; or

4               “(2) information that is classified in the na-  
5       tional security or foreign policy interests of the  
6       United States.

7       “(f) VOCATIONAL TRAINING.—At the end of each fis-  
8       cal year, Federal Prison Industries shall, if the Board of  
9       Directors determines that it is financially feasible to do  
10      so, contribute not less than 20 percent of its net profits  
11      for that fiscal year to provide for the vocational training  
12      of inmates without regard to their industrial or other as-  
13      signments.

14       “(g) EXEMPTION FROM PUBLIC CONTRACTING AND  
15      PROCUREMENT LAWS.—Federal Prison Industries is ex-  
16      empt from all laws and regulations governing public con-  
17      tracting and the procurement of property or services by  
18      an agency of the Federal Government.

19       “(h) LIABILITY.—The sole remedy for injury, death,  
20      or loss resulting from negligence in the design or produc-  
21      tion of a product, or in the performance of a service, by  
22      Federal Prison Industries shall be as follows:

23               “(1) In the case of a person suffering an injury,  
24      death, or loss in the performance of duties as an em-

1        ployee of the United States, chapter 81 of title 5, re-  
2        lating to compensation for work-related injuries.

3            “(2) In all other cases, chapter 171 of title 28,  
4        relating to tort claims.

5        “(i) DEDUCTIONS FROM WAGES.—

6            “(1) IN GENERAL.—Subject to the other provi-  
7        sions of this subsection, the Board of Directors may  
8        deduct and withhold amounts from the wages paid  
9        to a Federal Prison Industries inmate worker and  
10       disburse those amounts for the following:

11            “(A) Payment of fines, special assess-  
12        ments, restitution to the victim, and any other  
13        restitution owed by the inmate worker pursuant  
14        to court order.

15            “(B) Allocations for support of the inmate  
16        worker’s family under law, court order, or  
17        agreement by the inmate worker.

18            “(C) Reasonable charges for costs of incar-  
19        ceration, as determined by the Board of Direc-  
20        tors.

21            “(D) Contributions to any fund established  
22        by law to compensate the victims of crime.

23            “(E) Amounts to be held on account and  
24        paid to the inmate worker upon release from  
25        the custody of the Bureau of Prisons.

1           “(2) LIMITATION.—The total of all amounts de-  
 2           ducted and withheld from the pay of an inmate  
 3           worker for a pay period may not exceed—

4                   “(A) 80 percent of gross pay, in the case  
 5                   of an inmate worker specified in section  
 6                   4123(d)(2); or

7                   “(B) 50 percent of gross pay, in the case  
 8                   of any other inmate worker.

9           “(3) EXCEPTION.—The total specified in para-  
 10          graph (2) may, with the consent of an inmate work-  
 11          er, exceed the limitation in paragraph (2)(A) or  
 12          (2)(B), as applicable, if the amounts in excess of  
 13          such limitation are for the purposes described in  
 14          subparagraphs (B) or (E) of paragraph (1).

15          “(4) AGREEMENT OF INMATE WORKER RE-  
 16          QUIRED.—Amounts may not be deducted, withheld,  
 17          or disbursed under this subsection unless the inmate  
 18          worker concerned has agreed in advance to the de-  
 19          duction, withholding, or disbursement of those  
 20          amounts.

21   **“§ 4123. Federal Prison Industries: transactions au-**  
 22                   **thorized**

23          “(a) SALES TO AGENCIES AND NOT-FOR-PROFITS.—  
 24          Federal Prison Industries may sell products and services  
 25          to government agencies and not-for-profit organizations.

1       “(b) SALES OF CERTAIN COMMODITIES.—Federal  
2 Prison Industries may carry out a program to manufac-  
3 ture commodities specified in section 1761(b).

4       “(c) PARTICIPATION IN FOREIGN LABOR SUB-  
5 STITUTE PILOT PROJECTS.—Subject to the requirements  
6 in subsection (e), Federal Prison Industries may make  
7 available inmate workers for participation in a pilot  
8 project approved as a foreign labor substitute by the For-  
9 eign Labor Substitute Panel, as referred to in section  
10 1761(e).

11       “(d) PARTICIPATION IN BJA PILOT PROJECTS.—

12               “(1) IN GENERAL.—Subject to the require-  
13 ments in subsection (e), Federal Prison Industries  
14 may make available inmate workers for participation  
15 in a pilot project designated by the Director of the  
16 Bureau of Justice Assistance, as referred to in sec-  
17 tion 1761(c).

18               “(2) WAGE RATE.—Each inmate worker par-  
19 ticipating in a pilot project specified in paragraph  
20 (1) shall be paid at a wage rate that complies with  
21 section 1761(c).

22       “(e) REQUIREMENTS FOR CONTRACTS WITH PRI-  
23 VATE COMPANIES.—In making available inmate workers  
24 for participation in a pilot project under subsection (c) or

1 (d), Federal Prison Industries shall comply with the fol-  
2 lowing requirements:

3 “(1) The inmate workers shall be made avail-  
4 able through a contract between Federal Prison In-  
5 dustries and a private United States company.

6 “(2) The contract shall—

7 “(A) require that the labor performed by  
8 the inmate workers shall be carried out at a  
9 Federal Prison Industries facility;

10 “(B) include a clause that prohibits the  
11 company from displacing any of that company’s  
12 existing domestic workers as a direct result of  
13 the contract with Federal Prison Industries;  
14 and

15 “(C) provide that any workforce reductions  
16 carried out by the company affecting employees  
17 performing work comparable to the work per-  
18 formed pursuant to the contract shall first  
19 apply to inmate workers employed pursuant to  
20 the contract.

21 “(f) GOALS FOR CERTAIN BUSINESSES.—Federal  
22 Prison Industries shall, in consultation with the Small  
23 Business Administration, establish and strive to meet or  
24 exceed realistic goals for entering into contracts with one  
25 or more of the following:

1           “(1) A business concern that meets the applica-  
2       ble size standards prescribed pursuant to section  
3       3(a) of the Small Business Act (15 U.S.C. 632(a)).

4           “(2) A small business concern owned and con-  
5       trolled by socially and economically disadvantaged  
6       individuals, as that term is defined in section  
7       8(d)(3)(C) of the Small Business Act (15 U.S.C.  
8       637(d)(3)(C)).

9       “(g) JOB OPPORTUNITIES FOR BLIND AND SE-  
10      VERELY DISABLED INDIVIDUALS.—Federal Prison Indus-  
11      tries shall establish business partnerships with organiza-  
12      tions representing domestic workers who are blind or se-  
13      verely disabled, for the purpose of entering into contracts  
14      with private United States companies that would create  
15      job opportunities both for blind and severely disabled indi-  
16      viduals and for Federal inmates.

17       “(h) DONATION OF PRODUCTS AND SERVICES.—The  
18      Board of Directors may authorize—

19           “(1) the donation of a product or service of  
20       Federal Prison Industries that is available for sale;  
21       or

22           “(2) the production of a new product, or the  
23       performance of a new service, for donation.

24       “(i) CATALOG.—Federal Prison Industries shall pub-  
25      lish and maintain a catalog of all products and services

1 that it offers for sale to government agencies and not-for-  
 2 profit organizations. The catalog shall be periodically re-  
 3 vised as products and services are added or deleted.”.

4 (b) CONFORMING AMENDMENT.—Section 1761(c)(1)  
 5 of such title is amended by striking “non-Federal”.

6 (c) CLERICAL AMENDMENT.—The table of sections  
 7 at the beginning of chapter 307 of such title is amended  
 8 by striking the items relating to sections 4121, 4122, and  
 9 4123 and inserting the following:

“4121. Federal Prison Industries: status, mission, and management.

“4122. Federal Prison Industries: operating objectives, standards, and require-  
 ments.

“4123. Federal Prison Industries: transactions authorized.”.

10 **SEC. 4. AUTHORITY FOR FEDERAL AGENCIES TO PUR-**  
 11 **CHASE FROM FEDERAL PRISON INDUSTRIES**  
 12 **AND THE AUTHORITY FOR THE ATTORNEY**  
 13 **GENERAL TO CREATE A PILOT PROGRAM TO**  
 14 **TEST THE ELIMINATION OF THE MANDATORY**  
 15 **SOURCE PREFERENCE.**

16 (a) IN GENERAL.—Section 4124 of title 18, United  
 17 States Code, is amended—

18 (1) in subsection (a), by adding at the end the  
 19 following: “The mandatory source preference in this  
 20 section does not apply to services.”;

21 (2) by amending subsection (c) to read as fol-  
 22 lows:



1       “(c) Each Federal department or agency shall report  
2 purchases from Federal Prison Industries to the Federal  
3 Procurement Data System (referred to in section 6(d)(4)  
4 of the Office of Federal Procurement Policy Act (41  
5 U.S.C. 405(d)(4))) in the same manner as it reports to  
6 such System any acquisition in an amount in excess of  
7 the simplified acquisition threshold (as defined in section  
8 4(11) of that Act (41 U.S.C. 403(11))).”; and

9               (3) by amending subsection (d) to read as fol-  
10 lows:

11       “(d)(1) The head of a Federal department or agency  
12 may purchase directly from Federal Prison Industries any  
13 of the following:

14               “(A) Any products with respect to which the re-  
15 quirement in subsection (a) has, under any author-  
16 ity, been suspended, waived, or not invoked.

17               “(B) Any services.

18       “(2) A purchase under this subsection may be made  
19 in quantity and by any method that is determined appro-  
20 priate by the head of the agency making the purchase  
21 without regard to any provision of law or regulation.”.

22       (b) Chapter 307 of title 18, United States Code, is  
23 amended by adding at the end the following:

1 **“§ 4130. Creation of pilot program to test the elimi-**  
2 **nation of mandatory source preference in**  
3 **Federal Prison Industries programs**

4 “(a) CREATION OF PILOT PROGRAM.—Not later than  
5 180 days after the enactment of this section, the Attorney  
6 General shall implement a pilot program to test the effect  
7 of changes to the mandatory source preference of Federal  
8 Prison Industries described in section 4124. The pilot pro-  
9 gram shall conform to the requirements of this subsection  
10 (a).

11 “(1) PILOT PROGRAM TO COVER A DESIGNATED  
12 SPECIFIC PRODUCT OR PRODUCTS.—The Attorney  
13 General shall designate up to five specific product or  
14 products, identified by Standard Industrial Product  
15 Code (as published by the Office of Management  
16 and Budget), each from a separate industry cat-  
17 egory, which Federal Prison Industries, on the date  
18 of enactment of this section, produces and sells to  
19 the several Federal departments and agencies and  
20 other Government institutions of the United States,  
21 pursuant to the mandatory source preference de-  
22 scribed in section 4124. The pilot program created  
23 by this section shall be implemented with respect to  
24 such designated Federal Prison Industries product  
25 or products.

1           “(2) ELIMINATION OF MANDATORY SOURCE  
2           PREFERENCE WITH RESPECT TO DESIGNATED PROD-  
3           UCT OR PRODUCTS IN THE PILOT PROGRAM.—In the  
4           pilot program created by this section, the mandatory  
5           source preference of Federal Prison Industries pur-  
6           suant to section 4124, with respect to the designated  
7           product or products described in paragraph (1),  
8           shall be eliminated.

9           “(b) PERMANENT ELIMINATION OF MANDATORY  
10          SOURCE PREFERENCE UPON SATISFACTION OF CERTAIN  
11          CONDITIONS IN PILOT PROGRAM.—The Attorney General  
12          shall review the results of the pilot program created by  
13          this section, and shall determine whether the elimination  
14          of the mandatory source preference of Federal Prison In-  
15          dustries pursuant to section 4142, with respect to the des-  
16          ignated product or products in the pilot program, shall  
17          be made permanent or shall be terminated, all in accord-  
18          ance with this subsection (b).

19          “(1) ATTORNEY GENERAL’S DETERMINATION  
20          REGARDING EMPLOYMENT OF ELIGIBLE INMATES.—  
21          As of the date that is five years after the date of  
22          enactment of this section, the Attorney General shall  
23          determine how many eligible inmates are in fact em-  
24          ployed by Federal Prison Industries in the manufac-

1       ture or sale of the designated product or products in  
2       the pilot program created by this section.

3           “(2) EFFECT OF DETERMINATION THAT PILOT  
4       PROGRAM HAS MAINTAINED OR INCREASED INMATE  
5       EMPLOYMENT.—If the Attorney General determines  
6       pursuant to paragraph (1) that an equal or greater  
7       number of the eligible inmates described in para-  
8       graph (1) are employed in the manufacture and sale  
9       of the designated product or products than were so  
10      employed on the date of enactment of this section,  
11      then the elimination of the mandatory source pref-  
12      erence of Federal Prison Industries pursuant to sec-  
13      tion 4124, with respect to the designated product or  
14      products in the pilot program, shall be made perma-  
15      nent with respect to such product or products. In  
16      this event, the Attorney General shall submit a re-  
17      port to the Congress, containing recommendations  
18      for continuation of the pilot program to additional  
19      periods as described in section 4130(a)(1).

20          “(3) EFFECT OF DETERMINATION THAT PILOT  
21      PROGRAM HAS REDUCED INMATE EMPLOYMENT.—If  
22      the Attorney General determines pursuant to para-  
23      graph (1) that a lesser number of the eligible in-  
24      mates described in paragraph (1) are employed in  
25      the manufacture and sale of the designated product

1 or products than were so employed on the date of  
2 enactment of this section, then the pilot program  
3 created by this section may, at the discretion of the  
4 Attorney General, be terminated with respect to  
5 such product or products. In the event of such ter-  
6 mination, the mandatory source preference of Fed-  
7 eral Prison Industries pursuant to section 4124 shall  
8 be re-implemented with respect to the designated  
9 product or products. In this event, the Attorney  
10 General shall submit a report to the Congress, with-  
11 in 180 days after such determination, advising the  
12 Congress of the termination of the pilot program,  
13 and containing recommendations for continuation of  
14 the pilot program to additional products and for ad-  
15 ditional periods as described in section 4130(a)(1).

16 “(4) UTILIZATION OF OTHER REPORTS.—In  
17 preparing the reports described in paragraphs (2)  
18 and (3), the Attorney General shall pay due regard  
19 to any reports prepared during the existence of the  
20 pilot program by the Comptroller General and by the  
21 board of directors of Federal Prison Industries pur-  
22 suant to section 4127.

23 “(c) AUTHORITY FOR EARLY SUSPENSION OR TER-  
24 MINATION.—Notwithstanding subsection (b), the Attorney  
25 General may suspend or terminate the pilot program cre-

1 ated by this section at any time, in whole or in part, if  
 2 the Attorney General determines that such pilot program  
 3 threatens the stability or security of any Federal correc-  
 4 tional facility.

5 “(d) NO EFFECT ON EXISTING CONTRACTS OF FED-  
 6 ERAL PRISON INDUSTRIES.— Nothing in this section shall  
 7 be construed to amend or impair any contract between  
 8 Federal Prison Industries and any private person or com-  
 9 pany in effect at the time of commencement of the pilot  
 10 program created by this section.”

11 **SEC. 5. PERIODIC EVALUATION AND REPORTS.**

12 (a) IN GENERAL.—Section 4127 of title 18, United  
 13 States Code, is amended to read as follows:

14 **“§ 4127. Periodic evaluation and reports**

15 “(a) EVALUATION BY GAO.—

16 “(1) MATTERS EVALUATED.—The Comptroller  
 17 General shall provide for an independent evaluation  
 18 of the operations of Federal Prison Industries to be  
 19 carried out each year. The matters evaluated shall  
 20 include the following:

21 “(A) The overall success of the operations.

22 “(B) The effects that any reduction in the  
 23 purchases made under section 4124(a) has on  
 24 the viability of Federal Prison Industries.

1           “(C) The extent to which Federal Prison  
2 Industries can successfully contract with private  
3 companies without adversely affecting domestic  
4 companies or workers.

5           “(D) The current status and effects of the  
6 pilot program or programs described in section  
7 4130.

8           “(2) VIEWS INCLUDED.—The Comptroller Gen-  
9 eral shall ensure that, in the development of appro-  
10 priate methodologies for the evaluation under para-  
11 graph (1), the views of the Foreign Labor Substitute  
12 Panel, private industry, organized labor, the Board  
13 of Directors of Federal Prison Industries, and the  
14 public are solicited.

15           “(3) REPORT.—Not later than March 31 of  
16 each fiscal year, the Comptroller General shall sub-  
17 mit to Congress a report on the evaluation of the op-  
18 erations of Federal Prison Industries that was car-  
19 ried out under paragraph (1) for the preceding fiscal  
20 year. The report for a fiscal year shall, at a min-  
21 imum, include the following:

22           “(A) The evaluation.

23           “(B) Any concerns raised about any ad-  
24 verse effects on domestic companies or workers,

1 together with any actions taken in regard to the  
2 concerns.

3 “(C) The extent to which Federal Prison  
4 Industries maintained at least a 25 percent em-  
5 ployment rate for eligible inmate workers.

6 “(D) The extent to which Federal Prison  
7 Industries conducted its operations on a finan-  
8 cially self-sustaining basis.

9 “(E) Any recommended legislation to im-  
10 prove the administration of this chapter or the  
11 effects of the administration of this chapter, in-  
12 cluding any recommended legislation necessary  
13 to authorize remedial actions regarding—

14 “(i) any conduct of the operations of  
15 Federal Prison Industries in a manner  
16 that adversely affects domestic companies  
17 or workers (excluding the effects of normal  
18 competitive business practices);

19 “(ii) any failure of Federal Prison In-  
20 dustries to maintain at least a 25 percent  
21 employment rate for eligible inmate work-  
22 ers; or

23 “(iii) any failure of Federal Prison In-  
24 dustries to conduct its operations on a fi-  
25 nancially self-sustaining basis.



1 “(b) ANNUAL REPORT BY BOARD OF DIRECTORS.—

2 “(1) IN GENERAL.—The Board of Directors of  
3 Federal Prison Industries shall, each year, report  
4 under section 9106 of title 31 on the conduct of the  
5 business of Federal Prison Industries and the condi-  
6 tion of its funds during the preceding fiscal year.

7 “(2) MATTERS INCLUDED.—In addition to the  
8 matters required by section 9106 of title 31, and  
9 such other matters as the Board considers appro-  
10 priate, each report for a fiscal year under paragraph  
11 (1) shall include the following:

12 “(A) A statement of the amount of obliga-  
13 tions issued under section 4129(a)(1) of this  
14 title during that fiscal year.

15 “(B) An estimate of the amount of obliga-  
16 tions that will be issued under that section dur-  
17 ing the following fiscal year.

18 “(C) An analysis of—

19 “(i) the total sales by Federal Prison  
20 Industries for each product and service  
21 sold to Federal agencies and to private  
22 United States companies;

23 “(ii) the total purchases by each Fed-  
24 eral agency of each product and service;  
25 and

1                   “(iii) the Federal Prison Industries  
2                   share of the total Federal Government pur-  
3                   chases by product and service.

4                   “(D) An analysis of the inmate workforce,  
5                   including—

6                   “(i) the number of inmates employed;

7                   “(ii) the number of inmates used to  
8                   produce products or perform services sold  
9                   to private United States companies;

10                  “(iii) the number and percentage of  
11                  employed inmates, categorized by term of  
12                  incarceration; and

13                  “(iv) the various hourly wages paid to  
14                  inmates engaged in the production of the  
15                  various products and the performance of  
16                  services authorized for production and sale  
17                  to Federal agencies and to private United  
18                  States companies.

19                  “(E) Information concerning any employ-  
20                  ment obtained by former inmates upon release  
21                  that is useful in determining whether the em-  
22                  ployment provided by Federal Prison Industries  
23                  during incarceration provided those former in-  
24                  mates with knowledge and skill in a trade or oc-

1           cupation that enabled them to earn a livelihood  
2           upon release.

3           “(F) Information on the current status of  
4           the pilot program or programs described in sec-  
5           tion 4130.

6           “(3) AVAILABILITY TO PUBLIC.—The Board of  
7           Directors shall make available to the public each re-  
8           port under this subsection.”.

9           “(b) CLERICAL AMENDMENT.—In the table of sec-  
10          tions at the beginning of chapter 307 of such title, the  
11          item relating to section 4127 is amended to read as fol-  
12          lows:

          “4127. Periodic evaluation and reports.”.

13       **SEC. 6. RULES OF CONSTRUCTION AND DEFINITIONS.**

14           “(a) IN GENERAL.—Chapter 307 of title 18, United  
15          States Code, is amended by adding at the end (following  
16          the addition of section 4130 of such title, as added by sub-  
17          section (b) of section 4 of this Act) the following:

18       **“§ 4131. Construction of provisions**

19           “Nothing in this chapter shall be construed—

20                   “(1) to establish an entitlement of any inmate  
21          to—

22                           “(A) employment in a Federal Prison In-  
23                           dustries facility; or

24                           “(B) any particular wage, compensation,  
25                           or benefit on demand;

1 “(2) to establish that inmates are employees for  
2 the purposes of any law or program; or

3 “(3) to establish any cause of action by or on  
4 behalf of any person against the United States or  
5 any officer, employee, or contractor thereof.

6 **“§ 4132. Definitions**

7 “In this chapter:

8 “(1) The term ‘eligible inmate’ or ‘eligible in-  
9 mate worker’ means a person who—

10 “(A) is committed to the custody of the  
11 Bureau of Prisons pursuant to section 3621 of  
12 this title;

13 “(B) is designated to a low, medium, or  
14 high security facility operated by the Bureau of  
15 Prisons; and

16 “(C) is physically and mentally able to  
17 work.

18 “(2) The term ‘private United States company’  
19 means a corporation, partnership, joint venture, or  
20 sole proprietorship with a principal place of business  
21 in the United States.”.

22 “(b) CLERICAL AMENDMENT.—The table of sections  
23 at the beginning of chapter 307 of such title is amended  
24 by adding at the end the following new items:

“4130. Creation of pilot program to test elimination of mandatory source pref-  
erence in Federal Prison Industries programs.

“4131. Construction of provisions.

“4132. Definitions.”.

1 **SEC. 7. CONFORMING AMENDMENT.**

2       “Section 436 of title 18, United States Code, is  
3 amended by striking “Whoever,” and inserting “Except  
4 as otherwise provided in this title, whoever,”.

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